

STATE OF RHODE ISLAND
PROVIDENCE, S.C.

SUPERIOR COURT

RHODE ISLAND ECONOMIC
DEVELOPMENT CORPORATION,

Plaintiff,

v.

WELLS FARGO SECURITIES, LLC;
BARCLAYS CAPITAL, INC.; FIRST
SOUTHWEST COMPANY; STARR
INDEMNITY AND LIABILITY COMPANY;
CURT SCHILLING; THOMAS
ZACCAGNINO; RICHARD WESTER;
JENNIFER MACLEAN; ROBERT I.
STOLZMAN; ADLER POLLOCK &
SHEEHAN, P.C.; MOSES AFONSO RYAN
LTD.; ANTONIO AFONSO, JR.; KEITH
STOKES; AND J. MICHAEL SAUL

Defendants.

C.A. No PB12-5616

ANSWER AND DEFENSES OF
ADLER POLLOCK & SHEEHAN, P.C. AND ROBERT I. STOLZMAN
TO PLAINTIFF'S FIRST AMENDED COMPLAINT

Defendants, Adler Pollock & Sheehan, P.C. ("AP&S") and Robert I. Stolzman ("Stolzman"), (unless AP&S and Stolzman are referred to separately, they are collectively referred to herein as "AP&S"), by and through their undersigned counsel, hereby respond to Plaintiff's First Amended Complaint (the "Complaint") dated November 16, 2012 as follows:

AS AND FOR A FIRST DEFENSE

Plaintiff failed to mitigate its damages, if any. By way of example only, at the express instruction of its Chairman ex officio, Governor Lincoln Chafee, the Rhode Island Economic Development Corporation ("EDC") failed and refused to even speak to, meet with or engage

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representatives of 38 Studios in 2011 and early 2012 about restructuring the existing debt obligations of 38 Studios to EDC. Further, Governor Chafee prohibited discussion of such issues by the EDC Board. Such conduct constitutes a violation of EDC's obligations to act in good faith and deal fairly with its borrower and of its duty to mitigate damages.

AS AND FOR A SECOND DEFENSE

The Complaint fails to state a claim upon which relief may be granted.

AS AND FOR A THIRD DEFENSE

AP&S is not legally responsible for the acts or omissions alleged in the Complaint and its alleged acts and omissions are not the proximate cause of Plaintiff's injury. By way of example only, Plaintiff's refusal as aforesaid to speak to, meet with or engage 38 Studios, or otherwise properly manage the loan to 38 Studios after it was made, were the proximate cause of 38 Studios' collapse and Plaintiff's claimed injuries.

AS AND FOR A FOURTH DEFENSE

The Complaint and the injuries complained of are barred by Plaintiff's assumption of risk. The transaction at the heart of the Complaint was known and accepted by Plaintiff to be high risk.

AS AND FOR A FIFTH DEFENSE

The Complaint and the injuries complained of are barred and/or reduced by Plaintiff's comparative negligence.

AS AND FOR A SIXTH DEFENSE

The Complaint is barred by the doctrine of estoppel and waiver.

AS AND FOR A SEVENTH DEFENSE

The Complaint fails to join indispensable parties under Rule 19.

AS AND FOR AN EIGHTH DEFENSE

The Complaint is barred by the doctrine of imputation.

AS AND FOR A NINTH DEFENSE

The Complaint is barred by the doctrine of *in pari delicto*.

AS AND FOR A TENTH DEFENSE

The Complaint is barred by the doctrine of unclean hands.

AS AND FOR AN ELEVENTH DEFENSE

The Complaint is barred because Plaintiff lacks standing to sue and has suffered no injury.

**ANSWER OF
ADLER POLLOCK & SHEEHAN, P.C. AND ROBERT I. STOLZMAN
TO PLAINTIFF'S FIRST AMENDED COMPLAINT**

1. AP&S neither admits nor denies paragraph 1 of the Complaint as it calls for a legal conclusion to which no response is required. To the extent a response is required, paragraph 1 of the Complaint is denied.
2. AP&S neither admits nor denies paragraph 2 of the Complaint as it calls for a legal conclusion to which no response is required. To the extent a response is required, paragraph 2 of the Complaint is denied.
3. AP&S neither admits nor denies paragraph 3 of the Complaint as it calls for a legal conclusion to which no response is required. To the extent a response is required, paragraph 3 of the Complaint is denied.

4. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 4 of the Complaint and leaves Plaintiff to its proof thereof, except for the allegations set forth in the second sentence of paragraph 4, which are admitted.

5. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 5 of the Complaint and leaves Plaintiff to its proof thereof.

6. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 6 of the Complaint and leaves Plaintiff to its proof thereof.

7. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 7 of the Complaint and leaves Plaintiff to its proof thereof.

8. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 8 of the Complaint and leaves Plaintiff to its proof thereof.

9. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 9 of the Complaint and leaves Plaintiff to its proof thereof.

10. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 10 of the Complaint and leaves Plaintiff to its proof thereof.

11. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 11 of the Complaint and leaves Plaintiff to its proof thereof.

12. AP&S admits that it is a Rhode Island corporation and law firm with its principal place of business in Providence, Rhode Island and states that it served as counsel to the EDC from 1991 through January 2011. AP&S further admits the allegations contained in the second sentence of paragraph 12 but lacks knowledge or information sufficient to form a belief as to the truth or falsity of the characterization that Stolzman had "primary responsibility" for matters involving the EDC and leaves Plaintiff to its proof thereof. Further answering, AP&S admits the allegations contained in the last sentence of paragraph 12 of the Complaint. Except as expressly admitted hereby or as otherwise pled, the allegations contained in paragraph 12 of the Complaint are denied.

13. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the first two sentences of paragraph 13 of the Complaint and leaves Plaintiff to its proof thereof. Further answering, AP&S admits that Afonso¹ attended several meetings of and advised the EDC Board with respect to certain matters. Except as expressly admitted hereby or as otherwise pled, the allegations contained in paragraph 13 of the Complaint are denied.

14. The allegations contained in paragraph 14 of the Complaint are admitted.

15. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 15 of the Complaint and leaves Plaintiff to its proof thereof.

¹ Capitalized terms, if not defined herein, have the same definitions set forth in the Complaint.

16. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in sentences 1 through 5 of paragraph 16 of the Complaint and leaves Plaintiff to its proof thereof. Further answering, AP&S admits that a receiver was appointed over 38 Studios but otherwise denies the remaining allegations contained in the last sentence of paragraph 16 of the Complaint. Except as expressly admitted hereby or as otherwise pled, the allegations contained in paragraph 16 of the Complaint are denied.

17. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 17 of the Complaint and leaves Plaintiff to its proof thereof.

18. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 18 of the Complaint and leaves Plaintiff to its proof thereof.

19. The allegations contained in paragraph 19 of the Complaint are admitted.

20. The allegations contained in paragraph 20 of the Complaint are admitted.

21. AP&S neither admits nor denies paragraph 21 of the Complaint as it calls for a legal conclusion to which no response is required. To the extent a response is required, paragraph 21 of the Complaint is denied.

22. AP&S neither admits nor denies paragraph 22 of the Complaint as it calls for a legal conclusion to which no response is required. To the extent a response is required, paragraph 22 of the Complaint is denied.

23. AP&S admits the allegations contained in paragraph 23 insofar as they allege that in 2010 the EDC Board was asked to consider a loan to 38 Studios, and that the loan was to be structured as conduit financing, such that EDC would issue bonds to finance the loan and 38

Studios would repay the loan to EDC which would, in turn, pay the bondholders. Except as expressly admitted hereby, the allegations contained in paragraph 23 of the Complaint are denied.

24. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 24 of the Complaint and leaves Plaintiff to its proof thereof.

25. AP&S admits the allegations contained in paragraph 25 of the Complaint insofar as they allege that 38 Studios ceased business operations in May 2012. AP&S denies the allegations contained in the second sentence of paragraph 25 of the Complaint, and also denies the allegations contained in the third sentence of paragraph 25 of the Complaint as to it. Except as admitted or denied as aforesaid, AP&S lacks knowledge or information sufficient to form a belief as to the trust or falsity of the allegations contained in paragraph 25 of the Complaint and leaves Plaintiff to its proof thereof.

26. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 26 of the Complaint and leaves Plaintiff to its proof thereof.

27. AP&S denies the allegations contained in the first sentence of paragraph 27 of the Complaint, and denies as to it the allegations contained in the last sentence of paragraph 27 of the Complaint. Except as denied as aforesaid, AP&S lacks knowledge or information sufficient to form a belief as to the trust or falsity of the allegations contained in paragraph 27 of the Complaint and leaves Plaintiff to its proof thereof.

28. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 28 of the Complaint and leaves Plaintiff to its proof thereof.

29. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 29 of the Complaint and leaves Plaintiff to its proof thereof.

30. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 30 of the Complaint and leaves Plaintiff to its proof thereof.

31. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 31 of the Complaint and leaves Plaintiff to its proof thereof.

32. The allegations contained in paragraph 32 of the Complaint are denied as to AP&S. As to the other parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 32 of the Complaint and leaves Plaintiff to its proof thereof.

33. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 33 of the Complaint and leaves Plaintiff to its proof thereof.

34. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 34 of the Complaint and leaves Plaintiff to its proof thereof.

35. The allegations contained in paragraph 35 of the Complaint are denied.

36. The allegations contained in paragraph 36 of the Complaint are admitted.

37. The allegations contained in the first sentence of paragraph 37 of the Complaint are denied. In response to the remaining allegations contained in paragraph 37 of the Complaint, AP&S states that the term sheet identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff.

38. AP&S admits the allegations contained in the first sentence of paragraph 38 of the Complaint insofar as they allege that Stolzman knew that the bonds to be issued by the EDC would not be general obligations of the State of Rhode Island or the EDC, but denies the remaining allegations contained in the first sentence of paragraph 38 of the Complaint. Except as admitted or denied as aforesaid, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 38 of the Complaint and leaves Plaintiff to its proof thereof.

39. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 39 of the Complaint and leaves Plaintiff to its proof thereof.

40. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the first sentence of paragraph 40 of the Complaint and leaves Plaintiff to its proof thereof.

41. In response to the allegations contained in paragraph 41 of the Complaint, AP&S states that the financial projection referenced therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Further answering, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the last sentence of paragraph 41 of the Complaint and leaves Plaintiff to its proof thereof.

42. AP&S admits the allegations contained in paragraph 42 of the Complaint insofar as they allege that Stolzman attended a meeting with representatives of 38 Studios at its Maynard office on April 2, 2010. Except as expressly admitted hereby, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 42 of the Complaint and leaves Plaintiff to its proof thereof.

43. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 43 of the Complaint and leaves Plaintiff to its proof thereof.

44. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 44 of the Complaint and leaves Plaintiff to its proof thereof.

45. AP&S admits the allegations contained in paragraph 45 of the Complaint insofar as they allege that AP&S received the Equity PPM from Wells Fargo. Except as expressly admitted hereby, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 45 of the Complaint and leaves Plaintiff to its proof thereof.

46. AP&S admits the allegations contained in the first and second sentences of paragraph 46 of the Complaint insofar as they allege the occurrence of discussions between 38 Studios and EDC concerning the prospect of increasing the amount of the loan to \$85 million. Further answering, AP&S admits that Stolzman was aware of the discussions and of EDC's communication to 38 Studios that EDC would not loan 38 Studios in excess of \$75 million. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the last sentence contained in paragraph 46 of the Complaint and leaves Plaintiff to its proof thereof.

Except as expressly admitted hereby or as otherwise pled, AP&S denies the allegations contained in paragraph 46 of the Complaint.

47. The allegations contained in paragraph 47 of the Complaint are denied as to AP&S. As to the other persons and parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 47 of the Complaint and leaves Plaintiff to its proof thereof.

48. In response to the allegations contained in paragraph 48 of the Complaint, AP&S states that the April 1 Projection speaks for itself and denies any mischaracterization thereof by the Plaintiff. Further answering, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the last sentence contained in paragraph 48 of the Complaint and leaves Plaintiff to its proof thereof.

49. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 49 of the Complaint and leaves Plaintiff to its proof thereof.

50. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 50 of the Complaint and leaves Plaintiff to its proof thereof.

51. In response to the allegations contained in paragraph 51 of the Complaint, AP&S states that the draft Term Sheet speaks for itself and denies any mischaracterization thereof by the Plaintiff.

52. In response to the allegations contained in the first sentence of paragraph 52 of the Complaint, AP&S states that the April 1 Projection speaks for itself and denies any mischaracterization thereof by the Plaintiff. Further answering, AP&S lacks knowledge or

information sufficient to form a belief as to the truth or falsity of the last sentence contained in paragraph 52 of the Complaint and leaves Plaintiff to its proof thereof.

53. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 53 of the Complaint and leaves Plaintiff to their proof thereof.

54. In response to the allegations contained in paragraph 54 of the Complaint, AP&S states that the April 1 Projection speaks for itself and denies any mischaracterization thereof by the Plaintiff.

55. AP&S denies the allegations contained in the first sentence of paragraph 55 of the Complaint as to it but lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 55 of the Complaint as to the other persons and parties identified therein and leaves Plaintiff to its proof thereof. Further answering, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the last sentence contained in paragraph 55 of the Complaint and leaves Plaintiff to its proof thereof.

56. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 56 of the Complaint and leaves Plaintiff to its proof thereof.

57. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 57 of the Complaint and leaves Plaintiff to its proof thereof.

58. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 58 of the Complaint and leaves Plaintiff to its proof thereof.

59. The allegations contained in paragraph 59 of the Complaint are denied.

60. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the first sentence of paragraph 60 of the Complaint and leaves Plaintiff to its proof thereof. By way of further response, the email identified in paragraph 60 of the Complaint speaks for itself and AP&S denies any mischaracterization thereof by the Plaintiff.

61. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 61 of the Complaint and leaves Plaintiff to its proof thereof.

62. In response to the allegations contained in paragraph 62 of the Complaint, the communication identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff.

63. AP&S admits the allegations contained in paragraph 63 of the Complaint insofar as they allege that Stolzman was copied on a June 4, 2010 email referencing an analyst's list of risks. Except as expressly admitted hereby, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 63 of the Complaint and leaves Plaintiff to its proof thereof.

64. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the first four sentences of paragraph 64 of the Complaint and leaves Plaintiff to its proof thereof. Further answering, AP&S denies the allegations contained in the last two sentences of paragraph 64 of the Complaint.

65. AP&S admits the allegations contained in paragraph 65 of the Complaint insofar as they allege that at some point in time, a PowerPoint presentation was circulated to Stolzman

and he was advised that a presentation would be made to the EDC Board. Further answering, AP&S states that the PowerPoint presentation referenced in paragraph 65 of the Complaint speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, AP&S denies the allegations contained in paragraph 65 of the Complaint.

66. AP&S admits the allegations contained in paragraph 65 of the Complaint insofar as they allege that Saul made a PowerPoint presentation to the EDC Board in executive session on June 9, 2010. Further answering, AP&S states that the PowerPoint presentation referenced in paragraph 66 speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, AP&S denies the allegations contained in paragraph 66 of the Complaint.

67. In response to the allegations contained in paragraph 67 of the Complaint, AP&S states that the PowerPoint presentation identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Further answering, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the last sentence of paragraph 67 of the Complaint and leaves Plaintiff to its proof thereof.

68. The allegations contained in paragraph 68 of the Complaint are denied as to AP&S. As to the other persons and parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 68 of the Complaint.

69. In response to the allegations contained in paragraph 69 of the Complaint, AP&S admits that on June 9, 2010 the EDC Board met in executive session. To the extent paragraph 69 of the Complaint relies upon or quotes from the June 9, 2010 minutes of the EDC Board, AP&S

states that the minutes speak for themselves and denies any mischaracterization thereof by Plaintiff. Further answering, AP&S states that the minutes of the EDC Board meeting do not purport to be nor are they an exhaustive recitation of every statement, act or occurrence at the meeting. Except as admitted hereby or as otherwise pled, AP&S denies the allegations contained in paragraph 69 of the Complaint.

70. AP&S admits the allegations contained in paragraph 70 insofar as they allege that the EDC Board became aware that 38 Studios would receive net proceeds of less than \$75 million. Except as expressly admitted hereby or as otherwise pled, AP&S denies the allegations contained in paragraph 70 of the Complaint as to it but lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 70 of the Complaint as to the other persons and parties identified therein and leaves Plaintiff to its proof thereof.

71. In response to the allegations contained in paragraph 71 of the Complaint, AP&S states that the identified email speaks for itself and denies any mischaracterization thereof by the Plaintiff. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 71 of the Complaint and leaves Plaintiff to its proof thereof.

72. To the extent paragraph 72 of the Complaint relies upon or quotes from the June 9, 2010 minutes of the EDC Board and any presentations made, AP&S states that the minutes and presentation speak for themselves and denies any mischaracterization thereof by the Plaintiff.

73. In response to the allegations contained in paragraph 73 of the Complaint, AP&S states that the Public Law identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff.

74. In response to the allegations contained in paragraph 74 of the Complaint, AP&S states that the Public Law identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff.

75. The allegations contained in paragraph 75 of the Complaint are admitted.

76. The allegations contained in paragraph 76 of the Complaint are admitted.

77. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 77 of the Complaint and leaves Plaintiff to its proof thereof.

78. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 78 of the Complaint and leaves Plaintiff to its proof thereof.

79. AP&S denies the allegations contained in the second sentence of paragraph 79 of the Complaint. Further answering, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 79 of the Complaint and leaves Plaintiff to its proof thereof.

80. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 80 of the Complaint and leaves Plaintiff to its proof thereof.

81. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 81 of the Complaint and leaves Plaintiff to its proof thereof.

82. AP&S admits that Stolzman was present at EDC Board meetings when the 38 Studios transaction was discussed. Except as expressly admitted hereby, AP&S denies the remaining allegations contained in paragraph 82 of the Complaint.

83. In response to the allegations contained in paragraph 83 of the Complaint, AP&S states that the Inducement Resolution identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff.

84. In response to the allegations contained in paragraph 84 of the Complaint, AP&S states that the emails identified therein speak for themselves and denies any mischaracterization thereof by the Plaintiff.

85. In response to the allegations contained in paragraph 85 of the Complaint, AP&S admits that Stolzman circulated a draft key terms sheet and draft terms letter on June 17, 2010. Further answering, AP&S states that the email and documents identified therein speak for themselves and denies any mischaracterization thereof by the Plaintiff.

86. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 86 of the Complaint and leaves Plaintiff to its proof thereof.

87. In response to the allegations contained in paragraph 87 of the Complaint, AP&S admits that Stolzman attended a June 22, 2010 meeting at the offices of the EDC. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 87 of the Complaint and leaves Plaintiff to its proof thereof.

88. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 88 of the Complaint and leaves Plaintiff to its proof thereof.

89. AP&S admits the allegations contained in paragraph 89 of the Complaint insofar as they allege that 38 Studios considered obtaining capital through equity financing. Except as expressly admitted hereby, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 89 of the Complaint and leaves Plaintiff to its proof thereof.

90. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the first two sentences of paragraph 90 of the Complaint and leaves Plaintiff to its proof thereof. AP&S denies the allegations contained in the last sentence of paragraph 90 of the Complaint as to it but lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 90 of the Complaint as to the other persons and parties identified therein and leaves Plaintiff to its proof thereof.

91. In response to the allegations contained in paragraph 91 of the Complaint, AP&S states that the April 1 Projection speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as otherwise pled, AP&S denies the allegations contained in paragraph 91 of the Complaint as to it but lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 91 of the Complaint as to the other persons and parties identified therein and leaves Plaintiff to its proof thereof.

92. AP&S admits the allegations contained in the first sentence of paragraph 92 of the Complaint insofar as they allege that Stolzman circulated a revise Term Sheet on June 24, 2010.

Further answering, AP&S states that the Term Sheet identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, AP&S denies the allegations contained in paragraph 92 of the Complaint.

93. The allegations contained in paragraph 93 of the Complaint are denied.

94. The allegations contained in paragraph 94 of the Complaint are denied as to AP&S. As to the other persons and parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 94 of the Complaint.

95. In response to the allegations contained in paragraph 95 of the Complaint, AP&S states that the email and revised Term Sheet identified therein speak for themselves and denies any mischaracterization thereof by the Plaintiff. Except as otherwise pled, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 95 of the Complaint and leaves Plaintiff to its proof thereof.

96. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 96 of the Complaint and leaves Plaintiff to its proof thereof.

97. In response to the allegations contained in paragraph 97 of the Complaint, AP&S admits that the EDC Board met in public and executive session on July 15, 2010 and that at the close of the meeting, the EDC Board authorized the EDC staff and counsel to continue negotiations towards an authorizing resolution. Further, to the extent the allegations contained in paragraph 97 of the Complaint rely upon or quote from the minutes of the EDC Board meeting or any document, AP&S states that the minutes and the documents speak for themselves and denies any mischaracterization thereof by the Plaintiff. Further answering, AP&S states that the

minutes of the EDC Board meeting do not purport to be nor are they an exhaustive recitation of every statement, act or occurrence at the meeting. Except as expressly admitted hereby or as otherwise pled, AP&S denies the allegations contained in paragraph 97 of the Complaint.

98. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 98 of the Complaint and leaves Plaintiff to its proof thereof.

99. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 99 of the Complaint and leaves Plaintiff to its proof thereof.

100. AP&S admits the allegations contain in paragraph 100 of the Complaint insofar as they allege that on July 27, 2010 Afonso transmitted an email and Authorizing Resolution. Further answering, AP&S states that the email and the Authorizing Resolution identified therein speak for themselves and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, the allegations contained in paragraph 100 of the Complaint are denied.

101. The allegations contained in paragraph 101 of the Complaint are denied as to AP&S. As to the other persons and parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 101 of the Complaint.

102. The allegations contained in paragraph 102 of the Complaint are denied as to AP&S. As to the other persons and parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 102 of the Complaint and leaves Plaintiff to its proof thereof.

103. The allegations contained in paragraph 103 of the Complaint are denied as to AP&S. As to the other persons and parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 103 of the Complaint and leaves Plaintiff to its proof thereof.

104. The allegations contained in paragraph 104 of the Complaint are denied as to AP&S. As to the other persons and parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 104 of the Complaint and leaves Plaintiff to its proof thereof.

105. The allegations contained in paragraph 105 of the Complaint are denied.

106. In response to the allegations contained in paragraph 106 of the Complaint, AP&S admits that Stolzman sent an email on July 23, 2010 to the EDC recommending that the Term Sheet be place on EDC letterhead but otherwise denies the allegations contained in the first and second sentences of paragraph 106 of the Complaint. Except as admitted or denied as aforesaid, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 106 of the Complaint and leaves Plaintiff to its proof thereof.

107. In response to the allegations contained in paragraph 107 of the Complaint, AP&S admits that there was a meeting of the EDC Board on July 26, 2010, and that the EDC Board adopted the Authorizing Resolution at that meeting. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 107 of the Complaint as to Defendant Schilling's presence at the July 26, 2010 meeting of the EDC Board. Further answering, the Authorizing Resolution identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, the allegations contained in paragraph 107 of the Complaint are denied.

108. AP&S admits the allegations contained in paragraph 108 of the Complaint insofar as they allege that Afonso attended the July 26, 2010 meeting of the EDC Board and provided details on the Bond resolutions. Except as expressly admitted hereby, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 108 of the Complaint and leaves Plaintiff to its proof thereof.

109. AP&S admits the allegations contained in paragraph 109 of the Complaint insofar as they allege that the EDC Board adopted the Authorizing Resolution. Further answering, AP&S states that the Authorizing Resolution identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, the allegations contained in paragraph 109 of the Complaint are denied.

110. The allegations contained in paragraph 110 of the Complaint are denied as to AP&S. As to the other persons and parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 110 of the Complaint and leaves Plaintiff to its proof thereof.

111. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 111 of the Complaint and leaves Plaintiff to its proof thereof.

112. AP&S admits the allegations contained in paragraph 112 of the Complaint insofar as they allege the existence of a press release issued by the EDC following the adoption of the Authorizing Resolution and states that the press release identified in paragraph 112 of the Complaint speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, the allegations contained in paragraph 112 of the Complaint are denied.

113. In response to the allegations contained in paragraph 113 of the Complaint, AP&S states that the bond authorization, Private Placement Memorandum and Term Sheet identified therein speak for themselves and denies any mischaracterization thereof by the Plaintiff.

114. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 114 of the Complaint and leaves Plaintiff to its proof thereof.

115. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 115 of the Complaint and leaves Plaintiff to its proof thereof.

116. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 116 of the Complaint and leaves Plaintiff to its proof thereof. Further answering, to the extent that the allegations rely upon or quote from the Equity PPM, it speaks for itself and AP&S denies any mischaracterization thereof by the Plaintiff.

117. In response to the allegations contained in paragraph 117 of the Complaint, AP&S states that the Equity PPM identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff.

118. In response to the allegations contained in paragraph 118 of the Complaint, AP&S states that the Equity PPM identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as otherwise pled, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 118 of the Complaint and leaves Plaintiff to its proof thereof.

119. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 119 of the Complaint and leaves Plaintiff to its proof thereof.

120. The allegations contained in paragraph 120 of the Complaint are denied as to AP&S. As to the other persons and parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 120 of the Complaint and leaves Plaintiff to its proof thereof.

121. AP&S admits the allegations contained in paragraph 121 of the Complaint insofar as they allege that the process of marketing the EDC's bonds included obtaining credit ratings from Standard & Poor's and Moody's Investor Services. Except as expressly admitted hereby, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 121 of the Complaint and leaves Plaintiff to its proof thereof.

122. AP&S admits the allegations contained in paragraph 122 of the Complaint insofar as they allege that on September 10, 2010 Stolzman received from 38 Studios a document entitled "38 Studios Six Year Financial Plan to Moody's.doc – Confidential," and forwarded it by email to Afonso and Maureen Gurghigian. Further answering, AP&S states that the document and the email speak for themselves and denies any mischaracterization thereof by Plaintiff. Except as expressly admitted hereby or as otherwise pled, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 122 of the Complaint.

123. In response to the allegations contained in paragraph 123 of the complaint, AP&S states that the two page document identified as "38 Studios Six Year Financial Plan to Moody's.doc – Confidential" identified in paragraph 122 of the Complaint and the April 1

Projection identified in paragraph 123 of the Complaint, speak for themselves and denies any mischaracterization thereof by the Plaintiff. Except as pled as aforesaid, AP&S denies the allegations contained in paragraph 123 of the Complaint.

124. The allegations contained in paragraph 124 of the Complaint are denied as to AP&S. As to the other persons and parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 124 of the Complaint and leaves Plaintiff to its proof thereof.

125. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 125 of the Complaint and leaves Plaintiff to its proof thereof.

126. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 126 of the Complaint and leaves Plaintiff to its proof thereof.

127. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in the first sentence of paragraph 127 of the Complaint and leaves Plaintiff to its proof thereof. Further answering, AP&S states that the October 1, 2010 email identified in the second sentence of paragraph 127 of the Complaint speaks for itself and denies any mischaracterization thereof by the Plaintiff.

128. In response to the allegations contained in paragraph 128 of the Complaint, AP&S states that the draft PowerPoint presentation identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff.

129. AP&S admits the allegations contained in paragraph 129 of the Complaint insofar as they allege that First Southwest made certain changes in the referenced draft and forwarded it

to Stolzman. Further answering, AP&S states that the draft and revisions identified therein speak for themselves and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, the allegations contained in paragraph 129 are denied.

130. AP&S admits the allegations contained in paragraph 130 of the Complaint insofar as they allege the occurrence of a presentation to investors on October 6, 2010, the occurrence of a conference call prior to the investor presentation, and the existence of a PowerPoint presentation that was used in the presentation to investors. Further answering, AP&S states that the PowerPoint presentation speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, the allegations contained in paragraph 130 are denied.

131. The allegations contained in paragraph 131 of the Complaint are denied as to AP&S. As to the other persons and parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 131 of the Complaint and leaves Plaintiff to its proof thereof.

132. AP&S admits the allegations contained in paragraph 132 of the Complaint insofar as they allege the existence and execution of a Bond Placement Agreement (the "BPA") between and among Wells Fargo, EDC and 38 Studios. Further answering, the BPA identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, the allegations contained in paragraph 132 are denied.

133. In response to the allegations contained in paragraph 133 of the Complaint, AP&S states that the BPA identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff.

134. The allegations contained in paragraph 134 of the Complaint are denied as to AP&S. As to the other persons and parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 134 of the Complaint and leaves Plaintiff to its proof thereof.

135. In response to the allegations contained in paragraph 135 of the Complaint, AP&S states that the BPA identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff.

136. The allegations contained in paragraph 136 of the Complaint are denied as to AP&S. As to the other persons and parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 136 of the Complaint and leaves Plaintiff to its proof thereof.

137. In response to the allegations contained in paragraph 137 of the Complaint, AP&S states that the BPA identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff.

138. The allegations contained in paragraph 138 of the Complaint are denied as to AP&S. As to the other persons and parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 138 of the Complaint and leaves Plaintiff to its proof thereof.

139. In response to the allegations contained in paragraph 139 of the Complaint, AP&S states that the BPA identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Further answering, AP&S denies the allegations contained in the second sentence of paragraph 139 of the Complaint as to it but lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 139

of the Complaint as to the other person and parties identified therein and leaves Plaintiff to its proof thereof.

140. In response to the allegations contained in paragraph 140 of the Complaint, AP&S states that the Engagement Letter identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as otherwise pled, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 140 of the Complaint and leaves Plaintiff to its proof thereof.

141. In response to the allegations contained in paragraph 141 of the Complaint, AP&S states that the Engagement Letter identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff.

142. AP&S admits the allegations contained in paragraph 142 of the Complaint insofar as they allege that on November 2, 2010 the EDC issued Bonds totaling in the principal amount of \$75 million. Except as expressly admitted hereby, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 142 of the Complaint and leaves Plaintiff to its proof thereof.

143. AP&S neither admits nor denies paragraph 143 of the Complaint as it calls for a legal conclusion to which no response is required. To the extent a response is required, it is denied.

144. AP&S admits the allegations contained in paragraph 144 of the Complaint insofar as they allege that 38 Studios did not complete Copernicus and ran out of cash in 2012. Except as expressly admitted hereby, AP&S denies the allegations contained in paragraph 144 of the Complaint.

145. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 145 of the Complaint and leaves Plaintiff to its proof thereof.

146. In response to the allegations contained in paragraph 146 of the Complaint, AP&S states that the Bonds identified therein speak for themselves and denies any mischaracterization thereof by the Plaintiff.

147. AP&S admits the allegations contained in paragraph 147 of the Complaint insofar as it alleges that AP&S was paid a fee of \$124,790.00. Except as expressly admitted hereby, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 147 of the Complaint and leaves Plaintiff to its proof thereof.

148. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 148 of the Complaint and leaves Plaintiff to its proof thereof.

149. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 149 of the Complaint and leaves Plaintiff to its proof thereof.

150. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 150 of the Complaint and leaves Plaintiff to its proof thereof.

151. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 151 of the Complaint and leaves Plaintiff to its proof thereof.

152. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 152 of the Complaint and leaves Plaintiff to its proof thereof.

153. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 153 of the Complaint and leaves Plaintiff to its proof thereof.

154. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 154 of the Complaint and leaves Plaintiff to its proof thereof.

155. In response to the allegations contained in paragraph 155 of the Complaint, AP&S states that the Bond Placement Agreement identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff.

156. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 156 of the Complaint and leaves Plaintiff to its proof thereof.

157. In response to the allegations contained in paragraph 157 of the Complaint, AP&S states that the final paragraph of the Bond Placement Agreement identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as otherwise pled, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 157 of the Complaint and leaves Plaintiff to its proof thereof.

158. In response to the allegations contained in paragraph 158 of the Complaint, AP&S states that the Bond PPM identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as otherwise pled, AP&S lacks knowledge or information

sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 158 of the Complaint and leaves Plaintiff to its proof thereof.

159. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 159 of the Complaint and leaves Plaintiff to its proof thereof.

160. AP&S admits the allegations contained in paragraph 160 of the Complaint.

161. The allegations contained in paragraph 161 of the Complaint are denied.

162. AP&S admits the allegations contained in paragraph 162 of the Complaint insofar as they allege that Stolzman took notes at the June 2, 2010 meeting. Further, AP&S states that the notes identified therein speak for themselves and denies any mischaracterization thereof by the Plaintiff. Further answering, AP&S states that Stolzman's notes do not purport to be nor are they an exhaustive recitation of every statement, act or occurrence at the meeting. Except as expressly admitted hereby or as otherwise pled, AP&S denies the allegations contained in paragraph 162 of the Complaint.

163. AP&S admits the allegations contained in paragraph 163 of the Complaint insofar as they allege that Stolzman and Saul communicated with Strategy Analytics in early June, 2010 and that Strategy Analytics issued a written report. Further answering, the written report identified in paragraph 163 of the Complaint speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, AP&S denies the allegations contained in paragraph 163 of the Complaint.

164. The allegations contained in paragraph 164 of the Complaint are denied.

165. The allegations contained in paragraph 165 of the Complaint are admitted.

166. AP&S admits the allegations contained in paragraph 166 of the Complaint insofar as they allege the delivery of a PowerPoint presentation by representatives of Strategy Analytics to the EDC Board on June 14, 2010. Further answering, the PowerPoint presentation identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, AP&S denies the allegations contained in paragraph 166 of the Complaint.

167. AP&S admits the allegations contained in paragraph 167 of the Complaint insofar as they allege that at the June 14, 2010 EDC Board meeting, representatives from Strategy Analytics responded affirmatively to a question posed by an EDC director and supported the loan to 38 Studios. Except as expressly admitted hereby, AP&S denies the allegations contained in paragraph 167 of the Complaint.

168. AP&S admits the allegations contained in paragraph 168 of the Complaint insofar as they allege that on or about July 16, 2010, Gina Raimondo sent an email to Keith Stokes regarding 38 Studios. Further answering, the email identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted herein or as otherwise pled, AP&S denies the allegations contained in paragraph 168 of the Complaint.

169. The allegations contained in paragraph 169 of the Complaint are denied.

170. AP&S admits the allegations contained in paragraph 170 of the Complaint insofar as they allege the existence of a letter from Lincoln Chafee to Keith Stokes regarding 38 Studios. Further answering, AP&S states that the letter speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of

the allegations contained in paragraph 170 of the Complaint and leaves Plaintiff to its proof thereof.

171. AP&S admits the allegations contained in paragraph 171 of the Complaint insofar as they allege the existence of a letter from Keith Stokes to Lincoln Chafee concerning 38 Studios and that, at the request of EDC, Stolzman prepared a draft of the letter. Further answering, AP&S states that the letter speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, AP&S denies the allegations contained in paragraph 171 of the Complaint.

172. AP&S admits the allegations contained in paragraph 172 of the Complaint insofar as they allege that the EDC August BOD meeting was cancelled and that a member of the Board objected to the cancellation partially for the reasons stated. Except as expressly admitted hereby, AP&S denies the allegations contained in paragraph 172 of the Complaint.

173. AP&S admits the allegations contained in paragraph 173 of the Complaint insofar as they allege that the August EDC BOD meeting was rescheduled. Further answering, the agenda for the meeting referenced therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, AP&S denies the allegations contained in paragraph 173 of the Complaint.

174. AP&S denies the allegations contained in the first clause of the first sentence of paragraph 174 of the Complaint, and lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations in paragraph 174 of the Complaint and leaves Plaintiff to its proof thereof.

175. The allegations contained in Paragraph 175 of the Complaint are admitted.

176. The allegations contained in paragraph 176 of the Complaint are denied.

177. AP&S neither admits nor denies paragraph 177 of the Complaint as it calls for a legal conclusion to which no response is required. To the extent a further response is required, it is denied.

178. AP&S admits the allegations contained in paragraph 178 of the Complaint insofar as they allege that Stolzman sent an email to Stokes. Further answering, AP&S states that the email speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or otherwise pled, AP&S denies the allegations contained in paragraph 178 of the Complaint.

179. The allegations contained in paragraph 179 of the Complaint are denied.

180. The allegations contained in paragraph 180 of the Complaint are admitted insofar as they allege that the EDC Board met in executive session on July 15, 2010. Further, to the extent paragraph 180 of the Complaint summarizes and/or characterizes the information contained in the minutes of the July 15, 2010 executive session of the EDC Board, the minutes speaks for itself and AP&S denies any mischaracterization thereof by the Plaintiff. Further answering, AP&S states that the minutes of the EDC Board meeting do not purport to be nor are they an exhaustive recitation of every statement, act or occurrence at the meeting. Except as expressly admitted hereby or otherwise pled, AP&S denies the allegations contained in paragraph 180 of the Complaint.

181. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 181 of the Complaint and leaves Plaintiff to its proof thereof.

182. AP&S neither admits nor denies the first sentence of paragraph 182 of the Complaint as it calls for a legal conclusion to which no response is required. To the extent a

further response is required, it is denied. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations contained in paragraph 182 of the Complaint and leaves Plaintiff to its proof thereof.

183. AP&S admits the allegations contained in paragraph 183 of the Complaint insofar as they allege the existence of a July 22, 2010 confidential memorandum to the EDC Board that was prepared by Stolzman, signed by Stokes and distributed to Afonso. Further answering, the confidential memorandum referenced therein speaks for itself and AP&S denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, AP&S denies the allegations contained in paragraph 183 of the Complaint.

184. In response to the allegations contained in paragraph 184 of the Complaint, AP&S states that the confidential memorandum identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff.

185. AP&S admits the allegations contained in paragraph 185 of the Complaint insofar as they allege the existence and revision of the Term Sheet. Further answering, AP&S states that the Term Sheet and Authorizing Resolution identified therein speak for themselves and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, AP&S denies the allegations contained in paragraph 185 of the Complaint.

186. In response to the allegations contained in paragraph 186 of the Complaint, AP&S states that the language of the Term Sheet and/or Authorizing Resolution identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as otherwise pled, AP&S denies the allegations contained in paragraph 186 of the Complaint.

187. The allegations contained in paragraph 187 of the Complaint are denied.

188. The allegations contained in paragraph 188 of the Complaint are denied.

189. AP&S admits the allegations contained in paragraph 189 of the Complaint insofar as they allege that the parties attempted to negotiate a direct agreement with a third-party monitor. Except as expressly admitted hereby, AP&S denies the allegations contained in paragraph 189 of the Complaint.

190. The allegations contained in paragraph 190 of the Complaint are denied.

191. AP&S admits the allegations contained in paragraph 191 of the Complaint insofar as they allege that IBM entered into an agreement with 38 Studios. Further answering, AP&S states that the agreement referenced therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, AP&S denies the allegations contained in paragraph 191 of the Complaint.

192. AP&S denies the allegations contained in the first sentence of paragraph 192 of the Complaint. Further answering, in response to the remaining allegations of paragraph 192, AP&S states that the quoted language speaks for itself and denies any mischaracterization thereof by the Plaintiff.

193. The allegations contained in paragraph 193 of the Complaint are denied.

194. The allegations contained in paragraph 194 of the Complaint are denied as to AP&S. As to the other persons and parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 194 of the Complaint and leaves Plaintiff to its proof thereof.

195. AP&S admits the allegations contained in paragraph 195 of the Complaint insofar as they allege that Stolzman reviewed and commented on the Loan and Trust Agreement. Except as expressly admitted hereby, AP&S denies the allegations contained in paragraph 195 of the Complaint.

196. The allegations contained in paragraph 196 of the Complaint are denied.

197. The allegations contained in paragraph 197 of the Complaint are denied.

198. The allegations contained in paragraph 198 of the Complaint are denied.

199. AP&S admits the allegations contained in paragraph 199 of the Complaint insofar as they allege that Stolzman reviewed and commented on the Bond PPM. Further answering, the Bond PPM identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as expressly admitted hereby or as otherwise pled, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 199 of the Complaint and leaves Plaintiff to its proof thereof.

200. In response to the allegations contained in paragraph 200 of the Complaint, AP&S states that the Bond PPM identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as pled as aforesaid, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 200 of the Complaint and leaves Plaintiff to its proof thereof.

201. The allegations contained in paragraph 201 of the Complaint are denied as phrased.

202. The allegations contained in paragraph 202 of the Complaint are denied as to AP&S. As to the other persons and parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 202 of the Complaint and leaves Plaintiff to its proof thereof.

203. In response to the allegations contained in paragraph 203 of the Complaint, AP&S states that the BPA identified therein speaks for itself and denies any mischaracterization thereof by the Plaintiff.

204. The allegations contained in paragraph 204 of the Complaint are denied as to AP&S. As to the other persons and parties identified therein, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 204 of the Complaint and leaves Plaintiff to its proof thereof.

205. In response to the allegations contained in paragraph 205 of the Complaint, AP&S states that the opinion referenced therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as pled as aforesaid, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 205 of the Complaint and leaves Plaintiff to its proof thereof.

206. In response to the allegations contained in paragraph 206 of the Complaint, AP&S states that the opinion referenced therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as pled as aforesaid, AP&S denies the allegations contained in paragraph 206 of the Complaint.

207. AP&S admits the allegations contained in paragraph 207 of the Complaint insofar as they allege that the closing of the EDC loan to 38 Studios occurred on November 2, 2010. Except as expressly admitted hereby, the allegations contained in paragraph 207 of the Complaint are denied.

208. In response to the allegations contained in paragraph 208 of the Complaint, AP&S states that the agreement referenced therein speaks for itself and denies any mischaracterization thereof by the Plaintiff.

209. In response to the allegations contained in paragraph 209 of the Complaint, AP&S states that the agreement referenced therein speaks for itself and denies any mischaracterization thereof by the Plaintiff. Except as pled as aforesaid, AP&S denies the allegations contained in

paragraph 209 of the Complaint as to it but lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 209 of the Complaint as to the other person and parties identified therein and leaves Plaintiff to its proof thereof.

210. AP&S admits the allegations contained in paragraph 210 of the Complaint insofar as they allege that AP&S' fee was paid out of bond proceeds at the time of the closing. Except as expressly admitted hereby, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 210 of the Complaint and leaves Plaintiff to its proof thereof.

211. AP&S admits the allegations contained in paragraph 211 of the Complaint insofar as they allege that the Closings occurred on November 2, 2010. Except as expressly admitted hereby, AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 211 of the Complaint and leaves Plaintiff to its proof thereof.

212. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 212 of the Complaint and leaves Plaintiff to its proof thereof.

COUNT I

213. In response to the allegations contained in paragraph 213 of the Complaint, AP&S incorporates by reference the responses set forth in paragraphs 1 through and including 212 herein.

214. AP&S neither admits nor denies paragraph 214 of the Complaint as it calls for a legal conclusion to which no response is required. To the extent a further response is required, it is denied.

215. AP&S neither admits nor denies paragraph 215 of the Complaint as it calls for a legal conclusion to which no response is required. To the extent a further response is required, it is denied.

216. AP&S lacks knowledge or information sufficient to form a belief as to the truth or falsity of the allegations contained in paragraph 216 of the Complaint and leaves Plaintiff to its proof thereof.

217. The allegations contained in paragraph 217 of the Complaint are denied.

218. The allegations contained in paragraph 218 of the Complaint are denied.

219. The allegations contained in paragraph 219 of the Complaint are denied.

COUNT II

220. AP&S need not respond to the allegations contained in paragraph 220 of the Complaint as those are not directed at AP&S.

221. AP&S need not respond to the allegations contained in paragraph 221 of the Complaint as those are not directed at AP&S.

222. AP&S need not respond to the allegations contained in paragraph 222 of the Complaint as those are not directed at AP&S.

223. AP&S need not respond to the allegations contained in paragraph 223 of the Complaint as those are not directed at AP&S.

224. AP&S need not respond to the allegations contained in paragraph 224 of the Complaint as those are not directed at AP&S.

225. AP&S need not respond to the allegations contained in paragraph 225 of the Complaint as those are not directed at AP&S.

COUNT III

226. In response to the allegations contained in paragraph 226 of the Complaint, AP&S incorporates by reference the responses set forth in paragraphs 1 through and including 212 herein.

227. The allegations contained in paragraph 227 of the Complaint are denied.

228. The allegations contained in paragraph 228 of the Complaint are denied.

229. The allegations contained in paragraph 229 of the Complaint are denied.

230. The allegations contained in paragraph 230 of the Complaint are denied.

COUNT IV

231. In response to the allegations contained in paragraph 231 of the Complaint, AP&S incorporates by reference the responses set forth in paragraphs 1 through and including 212 herein.

232. The allegations contained in paragraph 232 of the Complaint are denied.

233. The allegations contained in paragraph 233 of the Complaint are denied.

234. The allegations contained in paragraph 234 of the Complaint are denied.

COUNT V

235. In response to the allegations contained in paragraph 235 of the Complaint, AP&S incorporates by reference the responses set forth in paragraphs 1 through and including 212 herein.

236. The allegations contained in paragraph 236 of the Complaint are denied.

237. The allegations contained in paragraph 237 of the Complaint are denied.

238. The allegations contained in paragraph 238 of the Complaint are denied.

239. The allegations contained in paragraph 239 of the Complaint are denied.

COUNT VI

240. In response to the allegations contained in paragraph 240 of the Complaint, AP&S incorporates by reference the responses set forth in paragraphs 1 through and including 212 herein.

241. AP&S neither admits nor denies paragraph 241 of the Complaint as it calls for a legal conclusion to which no response is required. To the extent a further response is required, it is denied.

242. The allegations contained in paragraph 242 of the Complaint are denied.

243. The allegations contained in paragraph 243 of the Complaint are denied.

244. The allegations contained in paragraph 244 of the Complaint are denied.

COUNT VII

245. In response to the allegations contained in paragraph 245 of the Complaint, AP&S incorporates by reference the responses set forth in paragraphs 1 through and including 212 herein.

246. The allegations contained in paragraph 246 of the Complaint are denied.

247. The allegations contained in paragraph 247 of the Complaint are denied.

COUNT VIII

248. In response to the allegations contained in paragraph 248 of the Complaint, AP&S incorporates by reference the responses set forth in paragraphs 1 through and including 212 herein.

249. The allegations contained in paragraph 249 of the Complaint are denied.

250. The allegations contained in paragraph 250 of the Complaint are denied.

251. The allegations contained in paragraph 251 of the Complaint are denied.

COUNT IX

252. In response to the allegations contained in paragraph 252 of the Complaint, AP&S incorporates by reference the responses set forth in paragraphs 1 through and including 212 herein.

253. The allegations contained in paragraph 253 of the Complaint are denied.

254. The allegations contained in paragraph 254 of the Complaint are denied.

255. The allegations contained in paragraph 255 of the Complaint are denied.

256. The allegations contained in paragraph 256 of the Complaint are denied.

COUNT X

257. AP&S need not respond to the allegations contained in paragraph 257 of Count X of the Complaint as Count X has been dismissed pursuant to the Court's Order entered on or about September 17, 2013.

258. AP&S need not respond to the allegations contained in paragraph 258 of Count X of the Complaint as Count X has been dismissed pursuant to the Court's Order entered on or about September 17, 2013.

259. AP&S need not respond to the allegations contained in paragraph 259 of Count X of the Complaint as Count X has been dismissed pursuant to the Court's Order entered on or about September 17, 2013.

260. AP&S need not respond to the allegations contained in paragraph 260 of Count X of the Complaint as Count X has been dismissed pursuant to the Court's Order entered on or about September 17, 2013.

261. AP&S need not respond to the allegations contained in paragraph 261 of Count X of the Complaint as Count X has been dismissed pursuant to the Court's Order entered on or about September 17, 2013.

262. AP&S need not respond to the allegations contained in paragraph 262 of Count X of the Complaint as Count X has been dismissed pursuant to the Court's Order entered on or about September 17, 2013.

263. AP&S need not respond to the allegations contained in paragraph 263 of Count X of the Complaint as Count X has been dismissed pursuant to the Court's Order entered on or about September 17, 2013.

COUNT XI

264. In response to the allegations contained in paragraph 264 of the Complaint, AP&S incorporates by reference the responses set forth in paragraphs 1 through and including 212 herein.

265. The allegations contained in paragraph 265 of the Complaint are denied.

266. The allegations contained in paragraph 266 of the Complaint are denied.

267. The allegations contained in paragraph 267 of the Complaint are denied.

268. The allegations contained in paragraph 268 of the Complaint are denied.

269. The allegations contained in paragraph 269 of the Complaint are denied.

270. The allegations contained in paragraph 270 of the Complaint are denied.

COUNT XII

271. AP&S need not respond to the allegations contained in paragraph 271 of the Complaint as those are not directed at AP&S.

272. AP&S need not respond to the allegations contained in paragraph 272 of the Complaint as those are not directed at AP&S.

273. AP&S need not respond to the allegations contained in paragraph 273 of the Complaint as those are not directed at AP&S.

274. AP&S need not respond to the allegations contained in paragraph 274 of the Complaint as those are not directed at AP&S.

275. AP&S need not respond to the allegations contained in paragraph 275 of the Complaint as those are not directed at AP&S.

276. AP&S need not respond to the allegations contained in paragraph 276 of the Complaint as those are not directed at AP&S.

277. AP&S need not respond to the allegations contained in paragraph 277 of the Complaint as those are not directed at AP&S.

278. AP&S need not respond to the allegations contained in paragraph 278 of the Complaint as those are not directed at AP&S.

279. AP&S need not respond to the allegations contained in paragraph 279 of the Complaint as those are not directed at AP&S.

280. AP&S need not respond to the allegations contained in paragraph 280 of the Complaint as those are not directed at AP&S.

281. AP&S need not respond to the allegations contained in paragraph 281 of the Complaint as those are not directed at AP&S.

COUNT XIII

282. AP&S need not respond to the allegations contained in paragraph 282 of the Complaint as those are not directed at AP&S.

283. AP&S need not respond to the allegations contained in paragraph 283 of the Complaint as those are not directed at AP&S.

284. AP&S need not respond to the allegations contained in paragraph 284 of the Complaint as those are not directed at AP&S.

285. AP&S need not respond to the allegations contained in paragraph 285 of the Complaint as those are not directed at AP&S.

286. AP&S need not respond to the allegations contained in paragraph 286 of the Complaint as those are not directed at AP&S.

287. AP&S need not respond to the allegations contained in paragraph 287 of the Complaint as those are not directed at AP&S.

288. AP&S need not respond to the allegations contained in paragraph 288 of the Complaint as those are not directed at AP&S.

289. AP&S need not respond to the allegations contained in paragraph 289 of the Complaint as those are not directed at AP&S.

COUNT XIV

290. AP&S need not respond to the allegations contained in paragraph 290 of the Complaint as those are not directed at AP&S.

291. AP&S need not respond to the allegations contained in paragraph 291 of the Complaint as those are not directed at AP&S.

292. AP&S need not respond to the allegations contained in paragraph 292 of the Complaint as those are not directed at AP&S.

293. AP&S need not respond to the allegations contained in paragraph 293 of the Complaint as those are not directed at AP&S.

294. AP&S need not respond to the allegations contained in paragraph 294 of the Complaint as those are not directed at AP&S.

COUNT XV

295. In response to the allegations contained in paragraph 295 of the Complaint, AP&S incorporates by reference the responses set forth in paragraphs 1 through and including 212 herein.

296. The allegations contained in paragraph 296 of the Complaint are denied.

297. The allegations contained in paragraph 297 of the Complaint are denied.

298. The allegations contained in paragraph 298 of the Complaint are denied.

COUNT XVI

299. In response to the allegations contained in paragraph 299 of the Complaint, AP&S incorporates by reference the responses set forth in paragraphs 1 through and including 298 herein.

300. The allegations contained in paragraph 300 of the Complaint are denied.

301. The allegations contained in paragraph 301 of the Complaint are denied.

WHEREFORE, Adler, Pollock & Sheehan, P.C. and Robert I. Stolzman respectfully request that the Complaint be dismissed, and that costs and attorneys' fees be awarded to Adler, Pollock & Sheehan, P.C. and Robert I. Stolzman.

COUNTERCLAIM OF ROBERT I. STOLZMAN AGAINST RHODE ISLAND ECONOMIC DEVELOPMENT CORPORATION FOR INDEMNIFICATION

Robert I. Stolzman, by his undersigned attorneys, for his Counterclaim against the Rhode Island Economic Development Corporation state as follows:

Parties

1. The Rhode Island Economic Development Corporation (the "EDC") is a quasi-public corporation created by R.I. Gen. Laws § 42-64-1 et seq. to promote certain economic policies of the State of Rhode Island.

2. Robert I. Stolzman (“Stolzman”) is a resident of Providence, Rhode Island and was the Secretary of the EDC from approximately 1994 through January, 2011.

3. At all times relevant hereto, Stolzman was a shareholder in AP&S and discharged his duties as Secretary of EDC in such capacity.

Jurisdiction and Venue

4. The amount in controversy exceeds the jurisdictional minimum of this Court as set forth in R.I. Gen. Laws § 8-2-14.

5. Venue in Providence County is proper under R.I. Gen. Laws § 9-4-3.

Facts

6. The Complaint names Stolzman along with other former EDC employees and officers. Stolzman is named in his capacity as the prior counsel for EDC, and in his capacity as the former Secretary of EDC. (Complaint at ¶12).

7. The Complaint makes little distinction between Stolzman’s capacity as a shareholder of AP&S and as counsel and Secretary of EDC.

8. The Complaint largely identifies Stolzman merely by his last name and lumps him and AP&S together with the other former EDC’s officers and employees in connection with the facts alleged and claims made in the Complaint.

9. The EDC is bound by the Rhode Island Port Authority and Economic Development Corporation By-Laws (the “By-Laws”).

10. Article IV of the By-Laws provides, in part, that EDC “shall indemnify any person who is or was a director, officer, employee or agent of the Corporation ... the manner and to the extent provided in § 7-1.1-4.1 of the Rhode Island Business Corporation Act”

11. Although R.I. Gen. Laws § 7-1.1-4.1 et seq. was repealed, P.L. 2004 ch. 216 § 1 and P.L. 2004, ch. 224 § 1, the substance of its provisions were reenacted in the successor Business Corporation Act, R.I. Gen. Laws § 7-1.2-814 (collectively the “Business Corporation Acts”).

12. As a former officer of EDC, Stolzman is entitled to indemnification under the By-Laws and the prior and current Business Corporation Acts for the claims asserted against him in the Complaint.

13. By letter dated December 10, 2012, Stolzman made demand upon EDC for such indemnification including, but not limited to, any attorneys’ fees and expenses incurred. In addition, in accordance with prior R.I. Gen. Laws § 7.1-1-4.1(f) and current R.I. Gen. Laws § 7-1.2-814(e), Stolzman made demand that EDC advance and reimburse the reasonable expenses incurred in the defense of the claims asserted against him in the Complaint.

14. Stolzman was prepared and able to provide the written affirmation required by the Business Corporation Acts that he had a good faith belief that he had met the standard for indemnification thereunder, and was also prepared to execute the written undertaking required by the prior R.I. Gen. Laws § 7-1.1-4-1(f)(2) and current R.I. Gen. Laws § 7.1-2-814(e)(2).

15. By letter dated December 19, 2012, counsel for Stolzman was informed by EDC’s outside counsel that he had forwarded the December 10, 2012 demand to William Parsons of the EDC and proposed that the matter be presented to the EDC Board for consideration at its regularly scheduled meeting on January 28, 2013.

16. By letter dated January 30, 2013, counsel for Stolzman was informed by EDC’s outside counsel that the Board of Directors of the EDC took up consideration of Stolzman’s request for indemnification at its board meeting held on January 28, 2013. The letter further

states that after consideration of the issue, the EDC had denied the request for indemnification made by Stolzman.

17. Any damages, including attorneys' fees and expenses, Stolzman has incurred or in the future will incur in the defense of the claims asserted in the Complaint are principally caused by the EDC's failure to indemnify Stolzman as a former officer of EDC pursuant to the Bylaws and the Business Corporation Acts by and through which Stolzman is entitled to indemnity.

18. As a result of EDC's failure to indemnify Stolzman, Stolzman has been damaged and, consistent therewith therefore has and asserts a counterclaim for indemnity against the EDC for all damages, attorneys' fees and costs incurred.

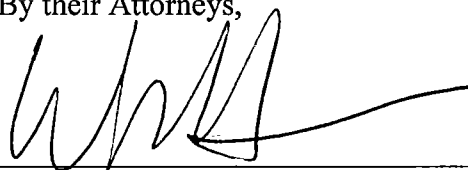
WHEREFORE, Stolzman respectfully requests that (a) EDC be required to indemnify him for his attorneys' fees and expenses incurred in this action; and (b) enter judgment in his favor and against the EDC for all attorneys' fees and expenses incurred by Stolzman in the defense of the claims asserted against them in the Complaint.

DEMAND FOR JURY TRIAL ON COUNTERCLAIM

Robert I. Stolzman demands a trial by jury on his Counterclaim.

**ROBERT I. STOLZMAN and
ADLER, POLLOCK & SHEEHAN P.C.,**

By their Attorneys,



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Date: September 24, 2013

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of September 2013, I served a true copy of the within document, by first class mail, postage prepaid and by electronic mail, upon:

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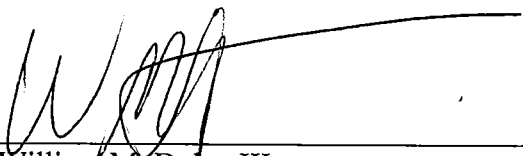
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